

**County Executive's Proposals for
Legislation Frederick County's 2023
General Assembly Legislative Package**

County Executive Proposed Legislation

Forest Conservation – Forest Conservation Fund

The proposed legislation suggests amendments to the State of Maryland's Natural Resources Article. These amendments would allow local jurisdictions to continue, as they have over the past two decades, to protect existing forests and valuable existing forest ecosystems through the State's forest banking program. At the same time, the suggested amendments will not impact the legislature's ability to evaluate the merits of forest mitigation banking via the study mandated by the General Assembly during the 2021 session. Any changes to the forest banking program recommended by the study can be made upon completion of a technical study by June 30, 2024, pursuant to the 2021 legislation.

To date, Frederick County has preserved over 2,500 acres of existing forest through the forest banking program, which constitutes 40% of the total acreage of existing forest preserved by conservation easements. All of these forest acres are within priority areas for conservation in accordance with state forest conservation regulations. The existing forest saved under this program include forests along the Scenic Monocacy River, habitat for rare, threatened, or endangered species, and miles of buffers along small tributary streams. Restoring the ability to save existing forest under this program will allow Frederick County to continue preserving important forest ecosystems.

Additionally, the amendments would provide flexibility to local jurisdictions in the use of conservation funds. The current timeframe to use the funds within two years or three growing seasons can be challenging for jurisdictions like Frederick County and its twelve municipalities. The process to expend the conservation funding includes planning, permitting, and the development of agreements. Further, smaller jurisdictions often have projects at less frequent intervals than larger cities and towns which are experiencing more rapid growth. Extending the reforestation or afforestation time period from two years/three growing periods to five (5) years or six (6) growing periods after receipt of funding will provide local governments the time needed to adequately and thoughtfully plan and utilize the funding.

Extending the timeframe is especially beneficial should the banking of existing forest continue to be disallowed. The availability of banking credits will quickly diminish, resulting in more payments into the Forest Conservation Fund, which will make it more challenging for local jurisdictions to spend the collected funds within a 2 year period.

A BILL ENTITLED

AN ACT concerning

Natural Resources – Forest Mitigation Banks and the Forest Conservation Fund – Alterations

FOR the purpose of altering the definition of “qualified conservation” for purposes of provisions of law related to forest mitigation banks; clarifying when certain methods can be used to establish certain afforestation standards; extending the deadline for the Department of Natural Resources to accomplish the reforestation or afforestation for which certain money is deposited to the Forest Conservation Fund; and generally relating to forest conservation.

By Renumbering

Article – Natural Resources

Section 5- 1601(hh) through (qq), respectively
to be Section 5- 1601 (ii) Through (Rr), Respectively
Annotated Code Of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, without amendments,

Article – Natural Resources
Section 5-1601 (a) and 5-1610(b)
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,

Article – Natural Resources
Section 5-1601(gg), 5-1607(b)(2), and 5-1610(e),
Annotated Code of Maryland
(2018 Replacement Volume and 2021 Supplement)

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[Brackets] indicate matter deleted from existing law

By adding to

Article – Natural Resources
Section 5-1601(hh)
Annotated Code of Maryland
(2018 replacement volume and 2021 supplement)

By repealing and reenacting, with amendments,

Chapter 645 of the Acts of the General Assembly 2021
Section 11.

**SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
SECTION(S) 5-1601(hh) THROUGH (qq), RESPECTIVELY, OF ARTICLE – NATURAL
RESOURCES OF THE ANNOTATED CODE OF MARYLAND BE RENUMBERED TO
BE SECTION(S) 5-1601 (ii) THROUGH (rr), RESPECTIVELY.**

**SECTION 2. AND BE IT FURTHER ENACTED, THAT THE LAWS OF
MARYLAND READ AS FOLLOWS:**

Article – Natural Resources

5-1601.

(a) In this subtitle the following words have the meanings indicated.

(gg) “Qualified conservation” means the conservation of all or a part of an existing forest that:

(1) [Was] **HAS BEEN** approved [on or before December 31, 2020,] by the appropriate State or local forest conservation program for the purpose of establishing a forest mitigation bank; and

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(2) Is encumbered in perpetuity by a restrictive easement, covenant, or another similar mechanism recorded in the county land records to conserve its character as a forest.

(hh) “QUALIFIED PROJECT” MEANS A PROJECT:

(1) USING QUALIFIED CONSERVATION FOR WHICH AN APPLICATION WAS SUBMITTED OR APPROVED ON OR BEFORE DECEMBER 31, 2020; OR

(2) ACHIEVING EQUAL OR GREATER ACREAGE OF MITIGATION FOR EACH ACRE OR PROPORTION OF FOREST REMOVED FROM THE SITE.

5-1607.

(b) Standards for meeting afforestation or reforestation requirements shall be established by the state or local program using one or more of the following methods:

(2) FOR A QUALIFIED PROJECT, the use of qualified conservation completed in a forest mitigation bank, in which case, the afforestation or reforestation credit granted may not exceed 50% of the forest area encumbered in perpetuity.

5-1610.

(b) There is a Forest Conservation Fund in the Department.

(e) (1) The Department shall accomplish the reforestation or afforestation for which the money is deposited within [2] 5 years or [3] 6 growing seasons, as appropriate, after receipt of the money.

(2) Money deposited in the Fund under subsection (c) of this section shall remain in the Fund for a period of [2] 5 years or [3] 6 growing seasons, and at the end of that time period, any portion that has not been used **OR ENCUMBERED** to meet the afforestation or reforestation requirements shall be returned to the person who provided the money to be used for documented tree planting in the same county or watershed beyond that required by this subtitle or other applicable statutes.

Chapter 645 of the Acts of 2021

SECTION 11. AND BE IT FURTHER ENACTED, That, except as provided in Section 10 of this Act, this Act shall take effect on June 1, 2021. Sections 1[**, 2,]** and 7 of this act shall remain effective for a period of 3 years and 1 month and, at the end of June 30, 2024, sections 1[**, 2,]** and 7 of this act, with no further action required by the general assembly, shall be abrogated and of no further force and effect. Subject to section 10 of this act, sections, 3, 4 and 5 of this act shall remain effective for a period of 10 years and 1 month and, at the end of June 30, 2031, sections 3, 4, and 5 of this act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect. Section 6 of this Act shall remain effective for a period of 2 years and 1 month and, at the end of June 30, 2023, Section 6 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

County Executive Proposed Legislation

Maryland Labor and Employment - Standards and Conditions - Lie Detector Tests

The proposed bill suggests amendments to the State of Maryland's Labor and Employment Article specific to the Employment Standards and Conditions. These amendments would allow the Frederick County Sheriff's Office to require any employee, in addition to those serving as a correctional officer, to submit to or take a polygraph upon condition of employment if they have direct personal contact with an inmate of the Frederick County Adult Detention Center (ADC).

Md. Labor and Employment Code Ann. § 3-702

§ 3-702. Lie detector tests.

(a) In this section, “employer” means:

- (1) a person engaged in a business, industry, profession, trade, or other enterprise in the State;
- (2) the State;
- (3) a county; and
- (4) a municipal corporation in the State.

(b) (1) This section does not apply to the federal government or any of its units.

(2) This section does not apply to an individual who is an employee of or applies for assignment to the Intelligence and Investigative Division of the Department of Public Safety and Correctional Services.

(3) This section does not apply to an individual who applies for employment or is employed:

- (i) as a law enforcement officer, as defined in § 3-101 of the Public Safety Article;
- (ii) as an employee of a law enforcement agency of the State, a county, or a municipal corporation;
- (iii) as a communications officer of the Calvert County Control Center;
- (iv) as a correctional officer of a State correctional facility;
- (v) as an employee of a State correctional facility in any capacity that involves direct contact with an inmate in a State correctional facility;
- (vi) as a correctional officer of the Calvert County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Detention Center;
- (vii) as a correctional officer of the Carroll County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Detention Center;
- (viii) as a correctional officer of the Washington County Detention Center or in any other capacity that involves direct personal contact with an inmate in the Center; [or]
- (ix) as a correctional officer of the Frederick County Adult Detention Center or in any other capacity that involves direct personal contact with an inmate in the Detention Center; or
[(ix)](x) as a correctional officer of:
 1. the Baltimore County Detention Center;
 2. the Cecil County Detention Center;
 3. the Charles County Detention Center;

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4. [the Frederick County Adult Detention Center;]
[5.] the Harford County Detention Center; or
[6.]5. the St. Mary's County Detention Center.
- (4) This section does not apply to an applicant for employment as a correctional officer of a local correctional facility.
- (5) This section does not apply to an applicant for employment with either the Anne Arundel County Department of Detention Facilities or the Caroline County Department of Corrections in any capacity that involves direct contact with an inmate in either the Anne Arundel County Department of Detention Facilities or the Caroline County Department of Corrections.
- (6) This section does not apply to an applicant for employment with the Washington County Emergency Communications Center.

(c) An employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a polygraph examination or similar test.

(d)

- (1) Each application for employment shall set out, in bold-faced upper case type, the following notice:

"Under Maryland law, an employer may not require or demand, as a condition of employment, prospective employment, or continued employment, that an individual submit to or take a polygraph examination or similar test. An employer who violates this law is guilty of a misdemeanor and subject to a fine not exceeding \$100."
- (2) Each application shall provide a space for an applicant to sign an acknowledgment of the notice required under this subsection.

(e) An applicant shall sign the acknowledgment of the notice required under subsection (d) of this section.

(f) If an employer violates subsection (c) or (d) of this section, an applicant for employment or prospective employment or an employee may submit to the Commissioner a written complaint.

(g)

- (1) Whenever the Commissioner determines that this section has been violated, the Commissioner may:
 - (i) try to resolve any issue involved in the violation informally by mediation; or
 - (ii) ask the Attorney General to bring an action on behalf of the applicant or employee.
- (2) The Attorney General may bring an action under this section in the county where the violation allegedly occurred, for injunctive relief, damages, or other relief.

(h) An employer who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$100.

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